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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,992	05/31/2006	Reiner Marchthaler	10191/4431	7077
26646 7590 08/18/2010 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
RAO, ANAND SHASHIKANT				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
08/18/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,992

Applicant(s)

MARCHTHALER ET AL.

Examiner

Andy S. Rao

Art Unit

2621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/20/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date 8/20/08 and 1/9/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(c) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 20-39 are rejected under 35 U.S.C. 102(c) as being anticipated by Spéro.

Spero discloses antiglare system for a vehicle (Spero: figure 1), comprising: an antiglare mechanism (Spero: column 6, lines 50-60); and a control device for controlling the antiglare mechanism, the control device including at least one image acquisition mechanism (Spero: column 7, lines 15-25), wherein the control device controls the antiglare mechanism as a function of a signal derived from the image acquisition mechanism (Spero: column 7, lines 40-60), and wherein the signal derived from the image acquisition mechanism includes data regarding at least one of a head position and a face-covering of at least one vehicle occupant (Spero: column 8, lines 50-60), as in claim 20.

Regarding claim Spero discloses wherein the data regarding the head position includes an eye position of the at least one vehicle occupant (Spero: column 8, lines 60-65), as in the claim.

Regarding claims 22-23, Spero discloses wherein the data regarding the head position includes an occupant class of the at least one vehicle occupant (Spero: column 9, lines 60-67), as in the claims.

Regarding claim 24, Spero discloses wherein the control device is operatively coupled to a restraint system for the at least one vehicle occupant (Spero: column 6, lines 35-40), as in the claim.

Regarding claim 25, Spero discloses wherein the face-covering is a pair of sunglasses (Spero: column 6, lines 64-67), as in the claim.

Regarding claims 26 and 28, Spero discloses wherein the control device identifies at least one shadow edge (Spero: column 7, lines 20-30), as in the claims.

Regarding claims 27 and 31, Spero discloses wherein the control device identifies a light intensity (Spero: column 11, lines 45-67; column 12, lines 1-40), as in the claims

Regarding claims 29-30, Spero discloses wherein the control device regulates the brightness of the image acquisition mechanism as a function of the signal derived from the image acquisition mechanism (Spero: column 7, lines 15-25), as in the claims.

Regarding claim 32, Spero discloses wherein the control device controls activation of the antiglare mechanism, and wherein the control device takes into account a second signal from an additional sensor system when activating the antiglare mechanism (Spero: column 11, lines 10-20), as in the claims.

Spero discloses an antiglare system for a vehicle (Spero: figure 1), comprising: an antiglare mechanism (Spero: column 6, lines 50-60); and a control device for controlling the antiglare mechanism, the control device including at least one image acquisition mechanism (Spero: column 7, lines 15-25), wherein the control device controls the antiglare mechanism as a function of a first signal of the image acquisition mechanism (Spero: column 7, lines 40-60), and wherein the image acquisition mechanism is sensitive only to a partial range of the spectrum, and wherein the antiglare mechanism reduces penetration of light into the vehicle for the partial range of the spectrum to which the image acquisition mechanism is sensitive (Spero: column 8, lines 50-60), as in claim 33.

Regarding claim 34, Spero discloses wherein the antiglare mechanism is bonded to a window of the vehicle (Spero: column 7, lines 40-45), as in the claim.

Regarding claim 35, Spero discloses wherein the control device controls the antiglare mechanism to varying degrees of glare reduction (Spero: column 7, lines 53-58).

Regarding claim 36, Spero discloses wherein the antiglare mechanism has a predefined attenuation value for a predefined spectral range (Spero: column 10, lines 50-60), as in the claim.

Regarding claim 37, Spero discloses wherein the image acquisition mechanism is sensitive to the infrared range of the spectrum (Spero: column 12, lines 10-20), as in the claim.

Regarding claim 38, Spero discloses wherein the image acquisition mechanism is sensitive to at least a narrow portion of the visible range of the spectrum (Spero: column 11, lines 5-20), as in the claim.

Regarding claim 39, Spero discloses further comprising: an illumination mechanism for illuminating the passenger compartment of the vehicle in the partial range of the spectrum to which the image acquisition mechanism is sensitive (Spero: column 10, lines 30-40), as in the claim.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Krist discloses a method for determining the eye and/or head position of a vehicle user and arrangement for carrying out the method.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)272-7337. The examiner can normally be reached on Monday-Friday 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

asr
/Andy S. Rao/
Primary Examiner, Art Unit 2621
August 16, 2010